

SSB 5145 - H COMM AMD

By Committee on Natural Resources, Ecology & Parks

ADOPTED 04/12/2005

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** It is the intent of the legislature to  
4 establish a boating safety education program that contributes to the  
5 reduction of accidents and increases the enjoyment of boating by all  
6 operators of all recreational vessels on the waters of this state.  
7 Based on the 2003 report to the legislature titled "Recreational  
8 Boating Safety in Washington, A Report on Methods to Achieve Safer  
9 Boating Practices," the legislature recognizes that boating accidents  
10 also occur in nonmotorized vessels in this state, but, at this time  
11 there is no national educational standard for nonmotorized vessels.  
12 Therefore, the commission is hereby authorized and directed to work  
13 with agencies and organizations representing nonmotorized vessel  
14 activities and individuals operating nonmotorized vessels to decrease  
15 accidents of operators in these vessels. It is also the intent of the  
16 legislature to encourage boating safety education programs that use  
17 volunteer and private sector efforts to enhance boating safety and  
18 education for operators of nonmotorized vessels to work closely with  
19 the state parks and recreation commission in its efforts to reduce all  
20 boating accidents in this state.

21 **Sec. 2.** RCW 79A.60.010 and 2003 c 39 s 45 are each amended to read  
22 as follows:

23 Unless the context clearly requires otherwise, the definitions in  
24 this section apply throughout this chapter.

25 (1) "Accredited course" means a mandatory course of instruction on  
26 boating safety education that has been approved by the commission.

27 (2) "Boat wastes" includes, but is not limited to, sewage, garbage,  
28 marine debris, plastics, contaminated bilge water, cleaning solvents,

1 paint scrapings, or discarded petroleum products associated with the  
2 use of vessels.

3 ~~((+2))~~ (3) "Boater" means any person on a vessel on waters of the  
4 state of Washington.

5 ~~((+3))~~ (4) "Boater education card" means a card issued to a person  
6 who has successfully completed a boating safety education test and has  
7 paid the registration fee for a serial number record to be maintained  
8 in the commission's data base.

9 (5) "Boating educator" means a person providing an accredited  
10 course.

11 (6) "Carrying passengers for hire" means carrying passengers in a  
12 vessel on waters of the state for valuable consideration, whether given  
13 directly or indirectly or received by the owner, agent, operator, or  
14 other person having an interest in the vessel. This shall not include  
15 trips where expenses for food, transportation, or incidentals are  
16 shared by participants on an even basis. Anyone receiving compensation  
17 for skills or money for amortization of equipment and carrying  
18 passengers shall be considered to be carrying passengers for hire on  
19 waters of the state.

20 ~~((+4))~~ (7) "Certificate of accomplishment" means a form of  
21 certificate approved by the commission and issued by a boating educator  
22 to a person who has successfully completed an accredited course.

23 (8) "Commission" means the state parks and recreation commission.

24 ~~((+5))~~ (9) "Darkness" means that period between sunset and  
25 sunrise.

26 ~~((+6))~~ (10) "Environmentally sensitive area" means a restricted  
27 body of water where discharge of untreated sewage from boats is  
28 especially detrimental because of limited flushing, shallow water,  
29 commercial or recreational shellfish, swimming areas, diversity of  
30 species, the absence of other pollution sources, or other  
31 characteristics.

32 ~~((+7))~~ (11) "Guide" means any individual, including but not  
33 limited to subcontractors and independent contractors, engaged for  
34 compensation or other consideration by a whitewater river outfitter for  
35 the purpose of operating vessels. A person licensed under RCW  
36 77.65.480 or 77.65.440 and acting as a fishing guide is not considered  
37 a guide for the purposes of this chapter.

1        ~~((8))~~ (12) "Marina" means a facility providing boat moorage  
2 space, fuel, or commercial services. Commercial services include but  
3 are not limited to overnight or live-aboard boating accommodations.

4        ~~((9))~~ (13) "Motor driven boats and vessels" means all boats and  
5 vessels which are self propelled.

6        ~~((10))~~ (14) "Motor vessel safety operating and equipment  
7 checklist" means a printed list of the safety requirements for a vessel  
8 with a motor installed or attached to the vessel being rented,  
9 chartered, or leased and meeting minimum requirements adopted by the  
10 commission in accordance with section 3 of this act.

11        (15) "Muffler" or "muffler system" means a sound suppression device  
12 or system, including an underwater exhaust system, designed and  
13 installed to abate the sound of exhaust gases emitted from an internal  
14 combustion engine and that prevents excessive or unusual noise.

15        ~~((11))~~ (16) "Operate" means to steer, direct, or otherwise have  
16 physical control of a vessel that is underway.

17        ~~((12))~~ (17) "Operator" means an individual who steers, directs,  
18 or otherwise has physical control of a vessel that is underway or  
19 exercises actual authority to control the person at the helm.

20        ~~((13))~~ (18) "Observer" means the individual riding in a vessel  
21 who is responsible for observing a water skier at all times.

22        ~~((14))~~ (19) "Owner" means a person who has a lawful right to  
23 possession of a vessel by purchase, exchange, gift, lease, inheritance,  
24 or legal action whether or not the vessel is subject to a security  
25 interest.

26        ~~((15))~~ (20) "Person" means any individual, sole proprietorship,  
27 partnership, corporation, nonprofit corporation or organization,  
28 limited liability company, firm, association, or other legal entity  
29 located within or outside this state.

30        ~~((16))~~ (21) "Personal flotation device" means a buoyancy device,  
31 life preserver, buoyant vest, ring buoy, or buoy cushion that is  
32 designed to float a person in the water and that is approved by the  
33 commission.

34        ~~((17))~~ (22) "Personal watercraft" means a vessel of less than  
35 sixteen feet that uses a motor powering a water jet pump, as its  
36 primary source of motive power and that is designed to be operated by  
37 a person sitting, standing, or kneeling on, or being towed behind the

1 vessel, rather than in the conventional manner of sitting or standing  
2 inside the vessel.

3 ~~((+18+))~~ (23) "Polluted area" means a body of water used by boaters  
4 that is contaminated by boat wastes at unacceptable levels, based on  
5 applicable water quality and shellfish standards.

6 ~~((+19+))~~ (24) "Public entities" means all elected or appointed  
7 bodies, including tribal governments, responsible for collecting and  
8 spending public funds.

9 ~~((+20+))~~ (25) "Reckless" or "recklessly" means acting carelessly  
10 and heedlessly in a willful and wanton disregard of the rights, safety,  
11 or property of another.

12 ~~((+21+))~~ (26) "Rental motor vessel" means a motor vessel that is  
13 legally owned by a person that is registered as a rental and leasing  
14 agency for recreational motor vessels, and for which there is a written  
15 and signed rental, charter, or lease agreement between the owner, or  
16 owner's agent, of the vessel and the operator of the vessel.

17 (27) "Sewage pumpout or dump unit" means:  
18 (a) A receiving chamber or tank designed to receive vessel sewage  
19 from a "porta-potty" or a portable container; and  
20 (b) A stationary or portable mechanical device on land, a dock,  
21 pier, float, barge, vessel, or other location convenient to boaters,  
22 designed to remove sewage waste from holding tanks on vessels.

23 ~~((+22+))~~ (28) "Underway" means that a vessel is not at anchor, or  
24 made fast to the shore, or aground.

25 ~~((+23+))~~ (29) "Vessel" includes every description of watercraft on  
26 the water, other than a seaplane, used or capable of being used as a  
27 means of transportation on the water. However, it does not include  
28 inner tubes, air mattresses, sailboards, and small rafts or flotation  
29 devices or toys customarily used by swimmers.

30 ~~((+24+))~~ (30) "Water skiing" means the physical act of being towed  
31 behind a vessel on, but not limited to, any skis, aquaplane, kneeboard,  
32 tube, or any other similar device.

33 ~~((+25+))~~ (31) "Waters of the state" means any waters within the  
34 territorial limits of Washington state.

35 ~~((+26+))~~ (32) "Whitewater river outfitter" means any person who is  
36 advertising to carry or carries passengers for hire on any whitewater  
37 river of the state, but does not include any person whose only service

1 on a given trip is providing instruction in canoeing or kayaking  
2 skills.

3 ~~((+27))~~ (33) "Whitewater rivers of the state" means those rivers  
4 and streams, or parts thereof, within the boundaries of the state as  
5 listed in RCW 79A.60.470 or as designated by the commission under RCW  
6 79A.60.495.

7 NEW SECTION. **Sec. 3.** A new section is added to chapter 79A.60 RCW  
8 to read as follows:

9 (1) The commission shall establish and implement by rule a program  
10 to provide required boating safety education. The boating safety  
11 education program shall include training on preventing the spread of  
12 aquatic invasive species. The program shall be phased in so that all  
13 boaters not exempted under section 4(3) of this act are required to  
14 obtain a boater education card by January 1, 2016. To obtain a boater  
15 education card, a boater shall provide a certificate of accomplishment  
16 issued by a boating educator for taking and passing an accredited  
17 boating safety education course, or pass an equivalency exam, or  
18 provide proof of completion of a course that meets the standard adopted  
19 by the commission.

20 (2) As part of the boating safety education program, the commission  
21 shall:

22 (a) Establish a program to be phased over eleven years starting  
23 July 1, 2005, with full implementation by January 1, 2016. The period  
24 July 1, 2005, through December 31, 2007, will be program development,  
25 boater notification of the new requirements for mandatory education,  
26 and processing cards to be issued to individuals having taken an  
27 accredited course prior to January 1, 2008. The schedule for phase-in  
28 of the mandatory education requirement by age group is as follows:

- 29 January 1, 2008 - All boat operators twenty years old and younger;  
30 January 1, 2009 - All boat operators twenty-five years old and younger;  
31 January 1, 2010 - All boat operators thirty years old and younger;  
32 January 1, 2011 - All boat operators thirty-five years old and younger;  
33 January 1, 2012 - All boat operators forty years old and younger;  
34 January 1, 2013 - All boat operators fifty years old and younger;  
35 January 1, 2014 - All boat operators sixty years old and younger;  
36 January 1, 2015 - All boat operators seventy years old and younger;  
37 January 1, 2016 - All boat operators;

1 (b) Establish a minimum standard of boating safety education  
2 accomplishment. The standard must be consistent with the applicable  
3 standard established by the national association of state boating law  
4 administrators;

5 (c) Adopt minimum standards for boating safety education course of  
6 instruction and examination that ensures compliance with the national  
7 association of state boating law administrators minimum standards;

8 (d) Approve and provide accreditation to boating safety education  
9 courses operated by volunteers, or commercial or nonprofit  
10 organizations, including, but not limited to, courses given by the  
11 United States coast guard auxiliary and the United States power  
12 squadrons;

13 (e) Develop an equivalency examination that may be taken as an  
14 alternative to the boating safety education course;

15 (f) Establish a fee of ten dollars for the boater education card to  
16 fund all commission activities related to the boating safety education  
17 program created by this act, including the initial costs of developing  
18 the program. Any surplus funds resulting from the fees received shall  
19 be distributed by the commission as grants to local marine law  
20 enforcement programs approved by the commission as provided in RCW  
21 88.02.040;

22 (g) Establish a fee for the replacement of the boater education  
23 card that covers the cost of replacement;

24 (h) Consider and evaluate public agency and commercial  
25 opportunities to assist in program administration with the intent to  
26 keep administrative costs to a minimum;

27 (i) Approve and provide accreditation to boating safety education  
28 courses offered online; and

29 (j) Provide a report to the legislature by January 1, 2008, on its  
30 progress of implementation of the mandatory education program.

31 NEW SECTION. **Sec. 4.** A new section is added to chapter 79A.60 RCW  
32 to read as follows:

33 (1) No person shall operate or permit the operation of motor driven  
34 boats and vessels with a mechanical power of fifteen horsepower or  
35 greater unless the person:

36 (a) Is at least twelve years of age, except that an operator of a

1 personal watercraft shall comply with the age requirements under RCW  
2 79A.60.190; and

3 (b)(i) Has in his or her possession a boater education card, unless  
4 exempted under subsection (3) of this section; or

5 (ii) Is accompanied by and is under the direct supervision of a  
6 person sixteen years of age or older who is in possession of a boater  
7 education card, or who is not yet required to possess the card as  
8 provided in the program phase in section 3(2)(a) of this act.

9 (2) Any person who can demonstrate they have successfully  
10 completed, prior to the effective date of this act, a boating safety  
11 education course substantially equivalent to the standards adopted by  
12 the commission shall be eligible for a boater education card upon  
13 application to the commission and payment of the fee, without having to  
14 take a course or equivalency exam as provided in section 3(1) of this  
15 act. Successful completion of a boating safety education course could  
16 include an original or copy of an original certificate issued by the  
17 commission, the United States coast guard auxiliary, or the United  
18 States power squadrons, or official certification by these  
19 organizations that the individual successfully completed a course  
20 substantially equivalent to the standards adopted by the commission.

21 (3) The following persons are not required to carry a boater  
22 education card:

23 (a) The operator of a vessel engaged in a lawful commercial fishery  
24 operation as licensed by the department of fish and wildlife under  
25 Title 77 RCW. However, the person when operating a vessel for  
26 recreational purposes must carry either a valid commercial fishing  
27 license issued by the department of fish and wildlife or a boater  
28 education card;

29 (b) Any person who possesses a valid marine operator license issued  
30 by the United States coast guard when operating a vessel authorized by  
31 such coast guard license. However, the person when operating a vessel  
32 for recreational purposes must carry either a valid marine operator  
33 license issued by the United States coast guard or a boater education  
34 card;

35 (c) Any person who is legally engaged in the operation of a vessel  
36 that is exempt from vessel registration requirements under chapter  
37 88.02 RCW and applicable rules and is used for purposes of law

1 enforcement or official government work. However, the person when  
2 operating a vessel for recreational purposes must carry a boater  
3 education card;

4 (d) Any person at least twelve years old renting, chartering, or  
5 leasing a motor driven boat or vessel with an engine power of fifteen  
6 horsepower or greater who completes a commission-approved motor vessel  
7 safety operating and equipment checklist each time before operating the  
8 motor driven boat or vessel, except that an operator of a personal  
9 watercraft shall comply with the age requirements under RCW 79A.60.190;

10 (e) Any person who is not a resident of Washington state and who  
11 does not operate a motor driven boat or vessel with an engine power of  
12 fifteen horsepower or greater in waters of the state for more than  
13 sixty consecutive days;

14 (f) Any person who is not a resident of Washington state and who  
15 holds a current out-of-state or out-of-country certificate or card that  
16 is equivalent to the rules adopted by the commission;

17 (g) Any person who has purchased the boat or vessel within the last  
18 sixty days, and has a bill of sale in his or her possession to document  
19 the date of purchase;

20 (h) Any person, including those less than twelve years of age, who  
21 is involved in practicing for, or engaging in, a permitted racing event  
22 where a valid document has been issued by the appropriate local, state,  
23 or federal government agency for the event, and is available for  
24 inspection on-site during the racing event;

25 (i) Any person who is not yet required to have a boater education  
26 card under the phased schedule in section 3(2)(a) of this act; and

27 (j) Any person born before January 1, 1955.

28 (4) Except as provided in subsection (3)(a) through (i) of this  
29 section, a boater must carry a boater education card while operating a  
30 vessel and is required to present the boater education card, or  
31 alternative license as provided in subsection (3)(a) and (b) of this  
32 section, to a law enforcement officer upon request.

33 (5) Failure to possess a boater education card required by this  
34 section is an infraction under chapter 7.84 RCW. The penalty shall be  
35 waived if the boater provides proof to the court within sixty days that  
36 he or she has received a boater education card.

37 (6) No person shall permit the rental, charter, or lease of a motor  
38 driven boat or vessel with an engine power of fifteen horsepower or

1 greater to a person without first reviewing with that person, and all  
2 other persons who may be permitted by the person to operate the vessel,  
3 all the information contained in the motor vessel safety operating and  
4 equipment checklist.

5 NEW SECTION. **Sec. 5.** A new section is added to chapter 79A.60 RCW  
6 to read as follows:

7 The boating safety education certification account is created in  
8 the custody of the state treasurer. All receipts from fees collected  
9 for the issuance of a boater education card shall be deposited in the  
10 account and shall be used only for the administration of sections 3 and  
11 4 of this act. Only the state parks and recreation commission may  
12 authorize expenditures from the account. The account is subject to  
13 allotment procedures under chapter 43.88 RCW, but an appropriation is  
14 not required for expenditures."

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